

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 6860

Petitions of Vermont Electric Power Company, Inc. and Green Mountain Power Corporation for a Certificate of Public Good authorizing VELCO to construct the so-called Northwest Vermont Reliability Project, said project to include: (1) upgrades at 12 existing VELCO and GMP substations located in Charlotte, Essex, Hartford, New Haven, North Ferrisburg, Poultney, Shelburne, South Burlington, Vergennes, West Rutland, Williamstown, and Williston, Vermont; (2) the construction of a new 345 kV transmission line from West Rutland to New Haven; (3) the construction of a 115 kV transmission line to replace a 34.5 kV and 46 kV transmission line from New Haven to South Burlington; and (4) the reconductoring of a 115 kV transmission line from Williamstown, to Barre, Vermont

DEPARTMENT'S MEMORANDUM ON WHETHER TO REOPEN AND REQUEST FOR  
EVIDENTIARY HEARING

The Department of Public Service ("DPS" or the "Department") files this memorandum in response to the Public Service Board's ("PSB" or the "Board") memorandum of August 25, 2005 entitled "Schedule for Proceedings on Remand." In summary:

- DPS contends that the Board's decision on whether to reopen should establish clearly that, in a given case under 30 V.S.A. § 248, an increase in estimated costs can be grounds to reopen.
- DPS believes that in deciding whether to reopen, the Board should consider whether reopening or not reopening best promotes the general good of the state.
- Based on what it knows today, the Department does not support reopening the case because the increased cost estimates appear unlikely to change the outcome, the drivers of the increased estimates appear largely outside of VELCO's control, and the consequences of reopening appear detrimental to the general good of the state.

In this regard:

**S**      The new cost estimates do not appear to affect the Board's prior decisions

that Vermont needs to meet reliability standards now and alternative resource configurations cannot meet these standards in a timely manner.

- S** The new cost estimates appear to derive primarily from market factors affecting the cost of raw materials and equipment and labor, engineering, and construction services for transmission projects.
- S** A reopened proceeding will be detrimental to the general good of the state if, as seems likely, it prolongs Vermont's reliability exposure and negatively affects the project through continued escalation of component and labor costs during the reopened proceeding, cancellation or delay in equipment orders, and loss of necessary contractors and personnel while the project is being revisited.
- DPS requests that the Board convene an evidentiary hearing at which the Vermont Electric Power Company, Inc. ("VELCO") would be directed to provide evidence on the cost estimates and associated analysis and the consequences of reopening the proceeding. In Section E, below, DPS lists specific items on which VELCO's testimony is sought.

DPS makes these and other arguments below.

- A. The Board should clearly establish that an increase in estimated project costs can be grounds to reopen a proceeding under 30 V.S.A. § 248.

The substantial increase in the estimated project cost reported by VELCO in its submittal

of July 8, 2005<sup>1</sup> raises not just an issue for this proceeding but for all proceedings under 30 V.S.A. § 248. The Department believes that the interests of the state support the Board's sending a clear message to utilities that, in a given case under § 248, a substantial increase in project costs can be grounds to reopen a proceeding. Project costs are important issues in a § 248 proceeding and ultimately affect the rates set by the Board for customers of electric and gas utilities. 30 V.S.A. §§ 218(a), 248(b)(2), (4), (6), (7). The possibility that a § 248 proceeding could be reopened based on cost increases provides incentives for utilities to present their best cost estimates and keep them up to date during a proceeding, and to contain costs once a project is approved. While the rationale for these incentives applies to all electric and gas utilities in Vermont, it especially applies to VELCO because VELCO's rates are not set by the Board. This makes a § 248 proceeding a particularly important opportunity to ensure that the costs of VELCO project are not more than what is needed to meet the requirements of statute.

Either of the two standards previously suggested by parties in their prior comments on remand would permit the Board to establish that cost increases may be grounds for reopening a § 248 proceeding. This is because both standards involve case-by-case examination of whether to reopen, which implicitly means that, in examining the circumstances of a specific case, an increase

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<sup>1</sup>VELCO's July 8, 2005 filing states an increase in project cost from "\$120 million" to "\$198 million plus a contingency of 15 percent," for a total current estimate of approximately \$228 million. VELCO stated that the "drivers of the increase" are: a high rate of inflation in the cost of materials, equipment and construction and engineering services in the two to three years since the original estimate; refinements in project design made during the regulatory process, including changes required by the Board; and the "fact that the original estimate did not reflect certain elements of cost . . . ." VELCO did not state which cost elements were omitted; however, in a July 14, 2005 filing, VELCO stated that these elements related to subcontractors' projects and incorrect estimates of the amount of concrete required for substation footings.

in estimated costs could be grounds to reopen.

For example, in its memorandum of July 14, 2005, VELCO argued that reopening can occur only through application of VRCP 60(b). Reopening under that rule is discretionary. Lyddy v. Lyddy, 173 Vt. 493, 497 (2001). In relevant part, VRCP 60(b)(2) allows reopening on the basis of “newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b).” Under VRCP 60(b)(2), the Board previously has applied a standard that the evidence must be “ ‘of such a material and controlling nature as will probably change the outcome.’ ” In re Petition of Ryegate Wood Energy Co., Docket No. 5217, Order of 11/30/90 at 5, quoting Moore’s Federal Practice § 60.23[4] (2d ed. 1990).<sup>2</sup> This standard necessarily involves a case-specific inquiry into the nature of the evidence and how it may affect the outcome in the particular case.

VRCP 60(b)(6) similarly requires a case-specific inquiry by focusing on the presence of hardship, injustice, or extraordinary circumstances. VRCP 60(b)(6) allows reopening “for any other reason justifying relief from the operation of the judgment.” The rule “may be invoked only when a ground justifying relief is not encompassed within any of the first five subsections of” VRCP 60(b). Olde & Co. v. Boudreau, 150 Vt. 321, 323 (1988). The rule is to be applied “liberally to prevent hardship or injustice,” and beyond such instances, in “extraordinary circumstances.” Id. at 324.

In its memorandum of July 12, 2005, by arguing that amendment is required and citing the

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<sup>2</sup>This standard is consistent with that applied by the federal courts. See, e.g., U.S. v. Int’l Brotherhood of Teamsters, 247 F.3d 370, 392 (2d Cir. 2001); Hoult v. Hoult, 57 F.3d 1, 6 (1995), cert. den. 527 U.S. 1022 (1999).

case of In re Citizens Utilities Company, 179 P.U.R. 4<sup>th</sup> 16 (Vt. 1997), the Town of New Haven appears to argue that a standard other than VRCP 60 applies, namely, the so-called “substantial change” test. In the Citizens ruling, the Board determined that an application for an amended certificate of public good (“CPG”) was required for a transmission line where the utility had made design changes and had failed to provide notice of the changes to parties in post-CPG compliance filings. Id. at 93, 117. In doing so, the Board adopted the “substantial change” test used by the former Environmental Board in determining whether an amendment is required for changes to a development project approved under 10 V.S.A. Chapter 151 (“Act 250”), stating that “Act 250’s substantial change test provides us and parties with useful guidance for when changes to a certificated project require an amended certificate.” Id. at 94. As the Board stated in that case, the test requires two determinations: first, whether there has been a change, and second, whether the change has the potential for significant impacts under the Section 248 criteria. Id. at 94-5. By focusing on the existence of change and whether it may have significant impacts under the criteria, the “substantial change” test necessarily requires a determination specific to the case.

- B. The Board should apply the standards of VRCP 60 in this case and state that the “substantial change” test will apply prospectively to cost changes in § 248 projects.

To decide whether to reopen, the Board will need to decide which of the two standards discussed above applies or whether both of them do. DPS believes that the Board should apply the standards of VRCP 60(b) and not the “substantial change” test in this proceeding because to date the latter test has been applied only to *design* and not cost changes in a project. However, DPS also believes that the “substantial change” test is better suited to achieving the statutory goals of § 248 than is VRCP 60(b) and advocates that the Board prospectively expand its applicability

to cost changes to a § 248 project.<sup>3</sup> DPS will explain.

Act 250's "substantial change" test applies to a *physical* change to a project. Secretary v. Earth Construction, Inc., 165 Vt. 160, 164 (1996); In re H.A. Manosh Corp., 147 Vt. 367, 370 (1986). By stating that it was adopting Act 250's test as guidance in the Citizens case, the Board implicitly carried forward this limitation or at least did not disclaim it.

This situation constitutes a significant reason not to apply the "substantial change" test to the increase in estimated Northwest Reliability Project ("NRP") costs because it means the utilities have not had notice that the test will be applied to cost changes. The Board has not previously applied the test to cost changes in a § 248 project or stated that it will do so. Instead, the Board has applied it to design changes. See, e.g., Citizens, 179 P.U.R. 4<sup>th</sup> at 94. DPS does not believe that the cost estimates in VELCO's July 8, 2005 filing are driven by any design changes to the project as approved by the Board on January 28, 2005 (the "Order"), although in part they may reflect design changes from the original proposal required by the Order.<sup>4</sup>

In addition, the CPG and Order issued to VELCO do not provide a sufficient foundation to require an amendment to the CPG based on cost changes. There is no condition in the CPG specifically requiring that VELCO only build the NRP if the costs are below a specified ceiling or within a stated range of the cost estimates it provided.

In this regard, key terms of the CPG and Order do not clearly support requiring an amendment for cost changes. The terms that DPS refers to are the Board's approval of the NRP

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<sup>3</sup>VRCP 60 would continue to apply as well.

<sup>4</sup>In its submittal of July 14, 2005, VELCO represents that the updated cost estimate is "based exclusively on the facilities approved by the Board in its January 28 order." See p. 1, n. 1.

“in accordance with the evidence and plans submitted in this proceeding” and its requirement that “[c]onstruction, operation and maintenance of the proposed Project shall be in accordance with the findings and requirements set forth in this Order.” Order of 1/28/05 at 226-27.<sup>5</sup>

These terms do not readily translate into a requirement to seek an amendment if the costs change significantly because the evidence and findings demonstrate that VELCO’s \$126 million projected cost for the NRP was considered as an estimate, the fluidity of which was acknowledged. See, e.g., Order of 1/28/05 at 49 (Finding 93); VELCO Exhibit MDM-2 at 35, 62, 67. For example, Finding 60 states that NEPOOL’s approval of the NRP for treatment as a pool transmission facility (“PTF”) allows as much as \$156 million in construction costs. Id. at 35. In addition, the evidence of DPS expert witness George Smith was that none of VELCO’s cost estimates appeared too high and that some of them appeared too low. Smith, pr. at 15. Mr. Smith’s testimony suggested additional project costs of approximately \$20 million over VELCO’s original estimate. See DPS Proposal for Decision at 4-5 (Nov. 24, 2004).

At the same time, DPS believes as a policy matter that in § 248 cases the “substantial change” test should not be limited to physical changes. In contrast to Act 250, regulation by the Public Service Board encompasses not only the physical characteristics and impacts of utility projects but also economic regulation of the utilities. See, e.g., 30 V.S.A. §§ 107, 108, 218, 225.

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<sup>5</sup>These terms would support requiring an amendment for design changes because the physical facilities approved by the Board are described in the evidence and findings. See, e.g., Order of January 28, 2005 at 4, including n. 1, and Appendix D. Since “a certificate for a given facility confers no authority to construct a different one,” these terms of the Order would support requiring VELCO to seek an amendment where design changes have the potential for significant impact under the Section 248 criteria. In re Vicon Recovery Systems, Docket No. 4813-A, Procedural Order of 3/23/87 at 3, incorporated into Final Order of 12/16/87 at 2, 53.

Section 248 itself addresses both the physical impacts of a project and the project's costs. See, e.g., 30 V.S.A. § 248(b)(1)-(5).

The “substantial change” test also appears better suited to promoting the goals of § 248 than VRCP 60(b) because it specifically focuses on the potential for significant impact under the criteria contained in that statute, namely, the promotion of the general good of the state under § 248(a) and the economic, engineering, least-cost planning and natural resource criteria of § 248(b). In contrast, VRCP 60(b) is a generalized rule that was developed primarily to address the rights of parties and not a statute that seeks to promote the general good. VRCP 60(b)(2) also appears to set a high bar of “material” and “controlling” evidence that would “probably change the outcome.”

Based on the foregoing, DPS believes that in this case the Board should apply VRCP 60(b) in determining whether the increased cost estimates warrant reopening the Order and not the “substantial change” test adopted in the Citizens ruling referenced above. However, the Board should state that in future § 248 proceedings it will apply the “substantial change” test to cost changes in a project. In addition, the Board should consider instituting practices to incorporate such a requirement into its CPGs issued under § 248. These practices could consist of conditions that require an amendment for substantial changes in the design or cost of the approved project, asking applicants to provide evidence on margins of error for their cost estimates, stating a ceiling cost amount or range of costs above which the project is not approved, or all of the above.

C. VRCP 60(b)(2) and (6) support consideration of the general good of the state in determining whether to reopen.

The Department believes that an essential question facing the Board is whether reopening



or not reopening the proceeding best promotes the general good of the state. As 30 V.S.A. § 248(a) states, the Board may approve a project under § 248 only if it finds that it will promote the state's general good. While DPS does not dispute the relevance of the specific criteria under 30 V.S.A. § 248(b), DPS contends that the general good of the state should be the Board's touchstone in making its decision.

Both VRCP 60(b)(2) and (6) support consideration of the general good of the state in determining whether to reopen. For example, since VRCP 60(b)(2) focuses on the impact of new evidence on the outcome of the case, it permits consideration of the general good of the state because the Order determined that the NRP would promote that general good. See, e.g., Order of 1/28/05 at 226. In addition, if the Board were to conclude that the cost estimates are not encompassed within the grounds for reconsideration under VRCP 60(b)(1)-(5), the Board could consider whether the cost estimates warrant reopening under VRCP 60(b)(6), and the impact on the general good of the state would be relevant to that subsection's inquiry into the existence of hardship, injustice, or extraordinary circumstances.<sup>6</sup>

Alternatively, the general good of the state would be relevant if the Board were to apply the substantial change test, because the potential for significant impact on the statutory criteria, including the general good of the state, would be encompassed within the test.

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<sup>6</sup>In its July 14, 2005 comments, VELCO concedes at page four that the general good of the state is relevant to "[a]ny reconsideration of the Board's Order in this proceeding."

- D. Based on what the Department knows today, the new cost estimates appear unlikely to change the outcome of the proceeding and the consequences of reopening appear detrimental to the general good of the state.

Based on what DPS knows today, DPS does not support reopening this proceeding because: (1) the new cost estimates appear unlikely to change the outcome, (2) the primary drivers of the cost increase appear to be outside of VELCO's control, and (3) reopening the proceeding appears detrimental to the general good of the state. DPS will discuss each of these areas in turn.

The new cost estimates appear unlikely to change the outcome of this proceeding because of key determinations made by the Board under the § 248(b) criteria relating to need and economic benefit that appear to be unaffected by the change in project costs.

For example, the increased cost estimates do not affect the Order's determination of the reliability standards that Vermont should meet. Specifically, the Order's findings and conclusions with respect to 30 V.S.A. § 248(b)(2) (need) stated that the so-called "N-2" and "resource adequacy" standards are the appropriate standards "for ensuring Vermonters 'reasonably adequate' electric service now and in the future." *Id.* at 19. In reaching this conclusion, the Order did not discuss the cost of achieving those standards, but rather based its decision on "two independent rationales": (a) at various levels of oversight, Vermont is expected to meet those standards and (b) the importance of reliable electric power to a Vermont economy and society that are increasingly dependent on electricity, coupled with the fact that Vermont is served by far fewer lines than other areas of the country, which provides less operational flexibility to manage and recover from outages. *Id.* at 17-18. These factors remain true even with the increased cost estimates and therefore Vermont needs to move forward to meet the reliability standards.

The increased cost estimates also do not change the Order's determination that alternative resource configurations ("ARC") cannot meet the reliability standards in a timely manner. In this regard, the Order's findings and conclusions on need conclude that the NRP "is the least-cost alternative that has fewer implementation hurdles and therefore can be in service before peak demand reaches the 1,100 MW level." Id. at 57. In reaching this conclusion, the Order emphasized that "[n]o other proposal in this case, including the generation, energy efficiency, and load response measures included in the various ARCs, can meet the expected need for service with an appropriate level of reliability in a timely manner." Id. at 52. The Order stated that the Board's decision was "influenced by the time constraints VELCO is operating under to improve the reliability of the bulk power system," stressing the existing net power deficit of 64 MW in northwest Vermont that is expected to increase to 135 MW in 2008, exposing Vermonters "to more outage-related risks than we find to be acceptable." Id. at 52-3. In rejecting an ARC that was estimated to be more cost-effective on a societal basis, the Order determined that there was "no reasonable likelihood" that the generation component of that alternative, three 40-MW generating stations, could be implemented within the necessary time frame. Id. at 53. The Order thus concluded that the NRP is needed now to address a serious problem. Id. at 5, 12. The new cost estimates may increase the societal cost-effectiveness of some ARCs when compared to the NRP, but they do not create more time or reduce other barriers to implementing the ARCs.

Similarly, under 30 V.S.A. § 248(b)(4) (economic benefit), the Order determined that the NRP will increase reliability and therefore "reduce potential economic and safety to risks associated with wide-spread loss of power in Northwest Vermont." Id. at 180. The Order stated:

[The NRP] is the most economic solution with the least number of implementation hurdles that can be placed into service in a timely manner. Conversely, doing nothing to correct for observed signs of reliability deficiencies at current peak load levels is neither sound regulatory policy nor likely to result in anything but negative economic consequences.

Id. at 180-81.

DPS also believes that the factors driving the increase involve market conditions that VELCO cannot control. VELCO's July 8, 2005 filing represents that major factors behind the cost increase include dramatic increases in the cost of raw materials and equipment and higher prices for labor, engineering, and construction services caused by competition with other transmission projects for these resources.

The Department further disfavors reopening because of its potential negative consequences to the general good of the state. Reopening the proceeding is likely to delay the project since it throws the Board's approval into doubt and calls into question whether VELCO should incur the significant expenses and risks involved if it were to proceed with the project. Multiple consequences may result.

First and foremost is lengthening Vermont's reliability exposure. If the project is delayed while the Board and parties revisit it, then Vermonters continue to risk loss of service. In this regard, VELCO reports to the DPS that last winter its system reached an all-time peak of 1,086 MW and this summer an all-time summer peak of 1,070 MW. These peaks are very close to the critical 1,100 MW level cited by the Board in its decision. Id. at 57.

Second, project delay risks escalation of project costs. If the material and labor cost trends are as VELCO represents in its July 8, 2005 submittal, then those upward trends are likely

to continue during the several months that a reopened proceeding is likely to take. It would be worse than unfortunate if the Board reopened the case, reached the same result as in the Order, and the project became even more expensive because of the additional regulatory review. And, given that the Board already decided that the ARCs could not be implemented in a timely manner, this outcome of a reopened proceeding seems highly probable.

Third, VELCO's substantial mobilization to implement the NRP may be negatively affected, with consequent impact on costs and the ability to retain the necessary personnel in the future. A pause in project implementation while it is being revisited could result in loss of contractors to other jobs or significant expenditure to retain them while VELCO waits for a decision. The same contractors may not be available for rehire should the Board reaffirm its decision. With competition from other transmission projects it may be difficult for VELCO to find contractors to do the work during the necessary time frame and, if it does, the additional cost increment may be significant. In this regard, on the last page of an attachment to VELCO's July 8, 2005 filing entitled "Recent Market Conditions Affecting Transmission Infrastructure Construction" (June 23, 2005), VELCO represents that the Edison Electric Institute projects that nationwide investment in transmission infrastructure will increase from an historical \$4.1 billion in 2003 to \$6 billion in 2006, an increase of roughly 50 percent.<sup>7</sup>

Fourth, if the proceeding is reopened, VELCO may have to delay or cancel orders for expensive equipment, or risk having to pay for equipment that ultimately is not used because the Board changes the project.

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<sup>7</sup>The monetary figures are in 2003 dollars.

On the other side of this equation are the magnitude of the cost increase and the importance of encouraging Vermont utilities to provide accurate cost estimates in § 248 proceedings. These are weighty considerations. In the Department's view, however, they do not outweigh the risks in this case of prolonging Vermont's reliability exposure or the economic consequences of reopening the project detailed above. As to the magnitude of the cost increase, VELCO asserts that a great deal of it results from what it costs to build a transmission project today. If this is the case, then NEPOOL is likely to pay a significant share of the increase because it is the cost of the needed PTFs. As to the message sent to Vermont utilities, this issue is addressed if the Board makes a clear statement that, in a given § 248 proceeding, costs may be grounds for reopening.

Further, there are avenues besides reopening this case to promote accuracy in future § 248 cost estimates by the petitioning utilities. The Board can investigate this issue separately. In comments filed in the transmission planning docket, no. 7081, on August 30, 2005, DPS has asked the Board to include, on a prospective basis, the issue of accuracy in cost estimation for transmission and non-transmission alternatives.

Alternatively, if the Board were to apply the "substantial change" test to the cost changes, DPS believes that the increase in estimates costs does not have the potential for *significant* impact on the general good of the state or the § 248(b) criteria, for the reasons given above. In this regard, while this standard requires a finding of potential rather than actual impact, the Supreme Court has emphasized that the potential impact must be significant. In re Barlow, 160 Vt. 513, 522 (1993). It is difficult to determine that the potential impacts of the increase in estimated costs are significant under the § 248 criteria given the Board's key decisions that the project is needed now

to meet important reliability standards and that no ARC can meet those standards in time, and given the likelihood that NEPOOL will pay a significant portion of the cost increase. Instead, it appears that reopening the proceeding is the action most likely to have the potential for significant, and adverse, impact on the general good of the state and the reliability criterion of § 248(b)(3).

E. The Board should convene an evidentiary hearing at which VELCO is directed to present its new cost estimates and other evidence.

DPS requests that the Board convene an evidentiary hearing concerning the increased cost estimates and associated analysis and the consequences of reopening the docket. Under VRCP 60(b), a decision on whether to hold a hearing is within the discretion of the lower tribunal. Lyddy, 173 Vt. at 497. Cf. Alexander v. Dupuis, 140 Vt. 122, 125 (1981) (consistent with due process, a full hearing on a motion under VRCP 60 need not be held if the motion on its face sets up facts which, even if proved, would lead to denial of the motion).

The Board should hold a hearing because the increased cost estimates and associated analysis and the issues related to the consequences of reopening involve matters of fact that are outside the record of this case and should be tested by a hearing. Since much of the information which informs the DPS position is outside the record and has not been scrutinized in a hearing, DPS will take a final position once a hearing has been held.

In this regard, in its filings concerning the increased cost estimate, VELCO has made many assertions that involve factual matters outside the record. These include its claims about the drivers of the increase in estimated costs, the effect on the costs of the ARCs, new peaks reached by the VELCO system, the likelihood of regional cost sharing, and the potential impact of reopening on the costs of and mobilization for the project. See, e.g., Letter, T. Wies to S. Hudson

at 2, 4 (July 8, 2005); Comments of VELCO and GMP Regarding the Board's Request for a Remand at 2, 4-6 (July 14, 2005). VELCO's July 8, 2005 filing also acknowledges that the increased cost estimate raises questions about the reliability of VELCO's original and revised estimates. Letter, T. Wies to S. Hudson at 3 (July 8, 2005). Further, in a filing with the Supreme Court, VELCO asserts that the cost of all transmission-only alternatives to the NRP has risen. Response of VELCO and GMP to Motions for Remand Filed by the Town of New Haven and the Department of Public Service at 6 (Supreme Ct. Docket No. 2005-164, Aug. 2, 2005).

DPS specifically requests that the Board direct VELCO to provide evidence on the following:

- a. The increased cost estimates and associated analysis filed July 8, 2005.
- b. A revised cost estimate for transmission-only alternatives (4) and (5) listed in Finding 67 of the Order, or other evidence supporting the assertion that the estimated cost of these alternatives has risen. Like the NRP, these alternatives were found to meet the N-2 criterion up to a 1,200 MW load level.
- c. The drivers of the increase in estimated costs.
- d. The reliability of the original and current estimates.
- e. Why VELCO did not revise its estimates and present them to the Board prior to the date of the Order.
- f. The PTF allocation of the new cost estimates.
- g. The consequences and costs of reopening the proceeding, including potential reliability implications, impact on mobilization to construct the project, and



potential for cost escalation during the reopened proceeding.

h. The most recent system and summer peaks.

Since the Court has provided only a limited time for the Board to make its decision, DPS requests that the Board make all reasonable efforts to complete this hearing in one day. VELCO should be allotted a specific amount of time (such as 90 minutes) in which to present direct testimony on the foregoing matters. The Board should direct its staff to convene a conference immediately prior to the hearing during which cross-examination time estimates would be established.

F. Conclusion

In conclusion, based on what it knows today, DPS does not support reopening this proceeding. DPS asks that the Board convene a hearing and direct VELCO to provide evidence as requested in Section E, above.

Dated at Montpelier, Vermont this 1<sup>st</sup> day of September, 2005.

VERMONT DEPARTMENT OF PUBLIC SERVICE

By: \_\_\_\_\_  
Aaron Adler, Special Counsel

cc: Attached Service List